

Decision 03-05-049 May 22, 2003

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of Platinum Development Company, LLC for a Certificate of Public Convenience and Necessity to Provide Competitive Local Exchange, IntraLATA and InterLATA Telephone Service Including High-Speed Data Service.

Application 00-04-010
(Filed April 3, 2000)

**DECISION DENYING IN PART AND
CLOSING APPLICATION**

I. Summary

Platinum Development Company, LLC (Applicant) filed this application for a certificate of public convenience and necessity (CPCN) under Pub. Util. Code § 1001 for authority to provide facilities-based local exchange and interexchange telecommunications services. By Decision (D.) 00-08-014, Applicant was granted authority to provide limited facilities-based local exchange and interexchange services. The application was left open to address proposed construction pursuant to the California Environmental Quality Act (CEQA). By this decision, we deny Applicant's request for approval of its proposed construction for failure to prosecute, and close the application.

II. Discussion

Applicant filed its application on April 3, 2000, requesting authority to provide facilities-based local exchange and interexchange telecommunications services. By D.00-08-014, Applicant was granted limited facilities-based authority. The application remained open to address the review of proposed

construction under CEQA. Applicant has not pursued the CEQA review. On March 13, 2003, the ALJ issued a ruling that required Applicant to indicate whether it wanted to pursue the application. Applicant was ordered to respond by March 25, 2003. No response was filed. This application cannot be left open indefinitely. Applicant has been given a full opportunity to pursue this matter and has not done so. Therefore, the portions of the application not addressed in D.00-08-014 shall be dismissed for failure to prosecute, and the application shall be closed. This order will be made effective immediately in order to clear this application from the Commission's list of active proceedings.

III. Comments on Draft Decision

The draft decision of ALJ Jeffrey P. O'Donnell in this matter was mailed to the parties in accordance with Pub. Util. Code Section 311(g)(1) and Rule 77.7 of the Commission's Rules of Practice and Procedure. No comments were filed.

IV. Assignment of Proceeding

Loretta M. Lynch is the Assigned Commissioner and Jeffrey P. O'Donnell is the assigned Administrative Law Judge in this proceeding.

Findings of Fact

1. By D.00-08-014, Applicant was granted authority to provide limited facilities-based local exchange and interexchange services.
2. Applicant has not pursued CEQA review of its proposed construction.
3. Applicant failed to respond to the ALJ's March 13, 2003 ruling.
4. The application cannot be left open indefinitely.

Conclusions of Law

1. Applicant's request for approval of proposed construction should be denied for failure to prosecute.
2. The application should be closed.

3. This order should be made effective immediately in order to clear this application from the Commission's list of active proceedings.

O R D E R

IT IS ORDERED that:

1. Except to the extent granted in Decision 00-08-014, Application 00-04-010 is denied.

2. This proceeding is closed.

This order is effective today.

Dated May 22, 2003, at San Francisco, California.

MICHAEL R. PEEVEY

President

CARL W. WOOD

LORETTA M. LYNCH

GEOFFREY F. BROWN

SUSAN P. KENNEDY

Commissioners